

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 04-46218

CAROLYN K. MARTIN,

Chapter 13

Debtor.

Judge Thomas J. Tucker

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ORDER DENYING MOTION FOR RECONSIDERATION

This case is before the Court on Debtor's motion entitled "Motion Under B.R. 9024 and Rule 60(b) F.R. Civ. P. for Relief From Order Dismissing Chapter 13 Case and for Order Reinstating Chapter 13 Case and Reinstating Automatic Stay Provisions of 11 U.S.C. § 362," filed on September 4, 2009 (Docket # 47, the "Motion"), which this Court construes as a motion for reconsideration of, and for relief from, the August 31, 2009 Order dismissing this case (which was filed twice, at Docket ## 43 and 44), and

The Court having reviewed and considered the Motion, and

The Court finds the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

The Court finds that the allegations in the Motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), FedR.Bankr.P. 9024, or any other valid ground for relief from the order dismissing this case.

In addition, the Court notes the following. Debtor's making of a payment to the Chapter 13 Trustee this month (September 2009), as alleged in the Motion, cannot in any event cure the Debtor's default under the confirmed plan, which is the problem that led to the dismissal of this case. Such payment comes several months too late. The plan in this case was confirmed on June

10, 2004 (Docket # 20), and the first payment was due under that confirmed plan in July 2004.

As a result, allowing any payments to the Trustee by the Debtor more than five years after July 2004, *i.e.*, after July 2009, would amount to a de facto plan modification that cannot be approved, because it would violate 11 U.S.C. § 1329(c).

NOW, THEREFORE,

IT IS ORDERED that the Motion should be, and is, DENIED.

Signed on September 10, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge